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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,486

09/06/2005

Stephen John Lobley

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EXAMINER

ZIMMERMANN, JOHN P

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/521,486	Applicant(s) LOBLEY ET AL.	
	Examiner John P. Zimmermann	Art Unit 2809	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☒ Claim(s) 1,6,15,18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>30 January 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Drawings

2. The drawings are objected to because A) Figure 7 in the specification is first listed as a spreadsheet [Page 8, Line 7], then as a graph [Page 13, Line 13 and following]. B) Figure 8 in the specification is listed as a graph [Page 8, Line 7], then not mentioned again in the specification as the graph is referred to as Figure 7. The actual Figure 8 is a graph. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. **Claim 1** is objected to because of the following informalities: The terms “wherein L*₁, a*₁, and a*₂ are...” & “where L*₃, a*₃, and a*₃ are...” [Claim 1 – Page 1, Lines 7 & 12, Amended Claims] appears to have been inadvertently miscopied from the specification as the specification clearly states “where L*₁, a*₁, and b*₁ are...” & “where L*₃, a*₃, and b*₃ are...” [Specification – Page 4, Lines 10 & 15]. Appropriate correction is required.

4. **Claims 6 & 20** are objected to because of the following informalities: The term “Wool” appears to have been inadvertently amended out of the claims currently ending in “a wool or wool blend fabric, containing at least 60%” [Claim 6 – Page 2 & Claim 20 - Page 3, Amended Claims]. Appropriate correction is required.

5. **Claim 15** is objected to because of the following informalities: A) The term “cur” appears to be a misspelling of the intended word “cue” [Claim 15 – Page 3, Amended Claims]. B) The terms “wherein L*₁, a*₁, and a*₂ are...” & “where L*₃, a*₃, and a*₃ are...” [Claim 15 – Page 3, Lines 4 & 9, Amended Claims] appears to have been inadvertently miscopied from the specification as the specification clearly states “where L*₁, a*₁, and b*₁ are...” & “where L*₃, a*₃, and b*₃ are...” [Specification – Page 4, Lines 10 & 15]. Appropriate correction is required.

6. **Claim 18** is objected to because of the following informalities: The phrase “of the area of the playing surface” appears to have been inadvertently amended out of the claim currently

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ending in “camouflage design is printed on at least 60%” [Claim 18 - Page 3, Amended Claims].

Appropriate correction is required.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. **Claims 1-30** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-30 of copending Application No. 10/521487 in view of **Siebert**, (US 5,568,666 A).

a. **Claims 1-14 & 15-27** in both the present and copending applications disclose identical information except for the term “cue sports” in the present application replaces the term “gaming” in the copending application (See tables below). It is well known in the art of gaming table cloth that the cloth used for gaming tables defined as “tables used in gambling casinos” is not patentably distinct from the cloth used for gaming tables defined as “pool or billiard tables.” Additionally, **Siebert** specifically teaches a method

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for making a cloth for gaming and pool tables (Siebert – Abstract), coloring a textile for gaming tables and pool tables (Siebert – Background, Column 1, Lines 1-2), and conventional gaming tables and pool tables typically overlaid with the same cloth (Siebert – Background, Column 1, Lines 13-17), that cloth chosen based on similar functions of increased wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32). Finally, the present application refers to printed woolen cloths that have been used as gaming table covers in casinos as related prior art further emphasizing the non-patentably distinctness of these two applications.

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<p>1. (Currently amended) A cue sports cloth comprising a cloth having a base color with a playing surface having a design printed thereon; characterized in that at least 30% of the area of the playing surface is printed with a camouflage design as defined by the function $\Delta E_2 < k \cdot \Delta E_1$, where ΔE_1 is a measure of the complexity of the design defined as,</p> $\Delta E_1 = \sqrt{(L_1^* - L_2^*)^2 + (a_1^* - a_2^*)^2 + (b_1^* - b_2^*)^2}$ <p>wherein L_1^*, a_1^*, and a_2^* are color coordinates of a first point and L_2^*, a_2^*, and b_2^* are color coordinates of a second point within a 2 inch by 2 inch grid square on the cue sports cloth, and ΔE_2 is a measure of the color contrast of the design with respect to the base color of the cloth defined as,</p> $\Delta E_2 = \sqrt{(L_3^* - L_4^*)^2 + (a_3^* - a_4^*)^2 + (b_3^* - b_4^*)^2}$ <p>wherein L_3^*, a_3^*, and a_4^* are color coordinates of the base color and L_4^*, a_4^*, and b_4^* are color coordinates of a point within a 2 inch by 2 inch grid square on the cue sports cloth that matches the base color most closely, and k is a constant with a value in the range 0 to 5.</p> <p>2. (Currently amended) The cue sports cloth according to claim 1, wherein the constant k has a value in the range 0 to 3.</p> <p>3. (Currently amended) The cue sports cloth according to claim 1, wherein the camouflage design is further defined by a color complexity value ΔE_1 of 15 or more.</p> <p>4. (Currently amended) The cue sports cloth according to claim 1, wherein a camouflage design is printed on at least 60% of the area of the playing surface.</p> <p>5. (Currently amended) The cue sports cloth according to claim 1, wherein a camouflage design is printed on all high wear areas of the playing surface.</p> <p>6. (Currently amended) The cue sports cloth according to claim 1, wherein the cloth is a wool or wool blend fabric, containing at least 60%.</p> <p>7. (Currently amended) The cue sports cloth according to claim 1, wherein the cloth is a woven felted fabric.</p> <p>8. (Currently amended) The cue sports cloth according to claim 1, wherein the cloth is a non-woven felted fabric.</p> <p>9. (Currently amended) The cue sports cloth according to claim 1, wherein the cloth is a worsted fabric.</p> <p>10. (Currently amended) The cue sports cloth according to claim 1, wherein the cloth is printed with dyes or inks applied to the surface of the base cloth.</p> <p>11. (Currently amended) The cue sports cloth according to claim 1, wherein the cloth is printed with a coloring agent selected from a group containing reactive dyes, acid dyes, pigments and mixtures thereof.</p> <p>12. (Currently amended) The cue sports cloth according to claim 11, wherein the cloth is printed with acid dyes.</p> <p>13. (Currently amended) The cue sports cloth according to claim 10, wherein the cloth is printed by inkjet printing.</p> <p>14. (Currently amended) A cue sports table having a cue sports cloth as defined by claim 1.</p>	<p>1. (Currently amended) A gaming cloth comprising a cloth having a base color with a playing surface having a design printed thereon; characterized in that at least 30% of the area of the playing surface is printed with a camouflage design as defined by the function $\Delta E_2 < k \cdot \Delta E_1$, where ΔE_1 is a measure of the complexity of the design defined as,</p> $\Delta E_1 = \sqrt{(L_1^* - L_2^*)^2 + (a_1^* - a_2^*)^2 + (b_1^* - b_2^*)^2}$ <p>wherein L_1^*, a_1^*, and a_2^* are color coordinates of a first point and L_2^*, a_2^*, and b_2^* are color coordinates of a second point within a 2 inch by 2 inch grid square on the gaming cloth, and ΔE_2 is a measure of the color contrast of the design with respect to the base color of the cloth defined as,</p> $\Delta E_2 = \sqrt{(L_3^* - L_4^*)^2 + (a_3^* - a_4^*)^2 + (b_3^* - b_4^*)^2}$ <p>wherein L_3^*, a_3^*, and a_4^* are color coordinates of the base color and L_4^*, a_4^*, and b_4^* are color coordinates of a point within a 2 inch by 2 inch grid square on the gaming cloth that matches the base color most closely, and k is a constant with a value in the range 0 to 5.</p> <p>2. (Currently amended) The gaming cloth according to claim 1, wherein the constant k has a value in the range 0 to 3.</p> <p>3. (Currently amended) The gaming cloth according to claim 1, wherein the camouflage design is further defined by a color complexity value ΔE_1 of 15 or more.</p> <p>4. (Currently amended) The gaming cloth according to claim 1, wherein a camouflage design is printed on at least 60% of the area of the playing surface.</p> <p>5. (Currently amended) The gaming cloth according to claim 1, wherein a camouflage design is printed on all high wear areas of the playing surface.</p> <p>6. (Currently amended) The gaming cloth according to claim 1, wherein the cloth is a wool or wool blend fabric, containing at least 60%.</p> <p>7. (Currently amended) The gaming cloth according to claim 1, wherein the cloth is a woven felted fabric.</p> <p>8. (Currently amended) The gaming cloth according to claim 1, wherein the cloth is a non-woven felted fabric.</p> <p>9. (Currently amended) The gaming cloth according to claim 1, wherein the cloth is a worsted fabric.</p> <p>10. (Currently amended) The gaming cloth according to claim 1, wherein the cloth is printed with dyes or inks applied to the surface of the base cloth.</p> <p>11. (Currently amended) The gaming cloth according to claim 1, wherein the cloth is printed with a coloring agent selected from a group containing reactive dyes, acid dyes, pigments and mixtures thereof.</p> <p>12. (Currently amended) The gaming cloth according to claim 11, wherein the cloth is printed with acid dyes.</p> <p>13. (Currently amended) The gaming cloth according to claim 10, wherein the cloth is printed by inkjet printing.</p> <p>14. (Currently amended) A gaming table having a gaming cloth as defined by claim 1.</p>

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<p>15. (Currently amended) A method of printing a cue sports cloth comprising a base cloth having a base color with a playing surface; characterized in that at least 30% of the area of the playing surface is printed with a camouflage design as defined by the function $\Delta E_2 < k \cdot \Delta E_1$, where ΔE_1 is a measure of the complexity of the design defined as,</p> $\Delta E_1 = \sqrt{(L_1^* - L_2^*)^2 + (a_1^* - a_2^*)^2 + (b_1^* - b_2^*)^2}$ <p>wherein L_1^*, a_1^*, and a_2^* are color coordinates of a first point and L_2^*, a_2^*, and b_2^* are color coordinates of a second point within a 2 inch by 2 inch grid square on the cue sports cloth, and ΔE_2 is a measure of the color contrast of the design with respect to the base color of the cloth defined as,</p> $\Delta E_2 = \sqrt{(L_3^* - L_4^*)^2 + (a_3^* - a_4^*)^2 + (b_3^* - b_4^*)^2}$ <p>wherein L_3^*, a_3^*, and a_4^* are color coordinates of the base color and L_4^*, a_4^*, and b_4^* are color coordinates of a point within a 2 inch by 2 inch grid square on the cue sports cloth that matches the base color most closely, and k is a constant with a value in the range 0 to 5.</p>	<p>15. (Currently amended) A method of printing a gaming cloth comprising a base cloth having a base color with a playing surface; characterized in that at least 30% of the area of the playing surface is printed with a camouflage design as defined by the function $\Delta E_2 < k \cdot \Delta E_1$, where ΔE_1 is a measure of the complexity of the design defined as,</p> $\Delta E_1 = \sqrt{(L_1^* - L_2^*)^2 + (a_1^* - a_2^*)^2 + (b_1^* - b_2^*)^2}$ <p>wherein L_1^*, a_1^*, and a_2^* are color coordinates of a first point and L_2^*, a_2^*, and b_2^* are color coordinates of a second point within a 2 inch by 2 inch grid square on the gaming cloth, and ΔE_2 is a measure of the color contrast of the design with respect to the base color of the cloth defined as,</p> $\Delta E_2 = \sqrt{(L_3^* - L_4^*)^2 + (a_3^* - a_4^*)^2 + (b_3^* - b_4^*)^2}$ <p>wherein L_3^*, a_3^*, and a_4^* are color coordinates of the base color and L_4^*, a_4^*, and b_4^* are color coordinates of a point within a 2 inch by 2 inch grid square on the gaming cloth that matches the base color most closely, and k is a constant with a value in the range 0 to 5.</p>
16. (Currently amended) The method according to claim 15, wherein the constant k has a value in the range 0 to 3.	16. (Currently amended) The method according to claim 15, wherein the constant k has a value in the range 0 to 3.
17. (Currently amended) The method according to claim 15 or claim 16, wherein the camouflage design is further defined by a color complexity value ΔE_1 of greater than 15.	17. (Currently amended) The method according to claim 15 or claim 16, wherein the camouflage design is further defined by a color complexity value ΔE_1 of greater than 15.
18. (Currently amended) The method according to any one of claims 15 to 17, wherein a camouflage design is printed on at least 60%.	18. (Currently amended) The method according to any one of claims 15 to 17, wherein a camouflage design is printed on at least 60%.
19. (Currently amended) The method according to claim 15, wherein a camouflage design is printed on all high wear areas of the playing surface.	19. (Currently amended) The method according to claim 15, wherein a camouflage design is printed on all high wear areas of the playing surface.
20. (Currently amended) The method according to claim 15, wherein the cloth is a wool or wool blend fabric, containing at least 60%.	20. (Currently amended) The method according to claim 15, wherein the cloth is a wool or wool blend fabric, containing at least 60%.
21. (Currently amended) The method according to claim 15, wherein the cloth is a woven felted fabric.	21. (Currently amended) The method according to claim 15, wherein the cloth is a woven felted fabric.
22. (Currently amended) The method according to claim 15, wherein the cloth is a non-woven felted fabric.	22. (Currently amended) The method according to claim 15, wherein the cloth is a non-woven felted fabric.
23. (Currently amended) The method according to claim 15, wherein the cloth is a worsted fabric.	23. (Currently amended) The method according to claim 15, wherein the cloth is a worsted fabric.
24. (Currently amended) The method according to claim 15, wherein the cloth is printed with dyes or inks applied to the surface of the base cloth.	24. (Currently amended) The method according to claim 15, wherein the cloth is printed with dyes or inks applied to the surface of the base cloth.
25. (Currently amended) The method according to claim 15, wherein the cloth is printed with a coloring agent selected from a group containing reactive dyes, acid dyes, pigments and mixtures thereof.	25. (Currently amended) The method according to claim 15, wherein the cloth is printed with a coloring agent selected from a group containing reactive dyes, acid dyes, pigments and mixtures thereof.
26. (Currently amended) The method according to claim 25, wherein the cloth is printed with acid dyes.	26. (Currently amended) The method according to claim 25, wherein the cloth is printed with acid dyes.
27. (Currently amended) The method according to claim 24, wherein the cloth is printed by inkjet printing.	27. (Currently amended) The method according to claim 24, wherein the cloth is printed by inkjet printing.

b. **Claim 28** in both the present and copending applications disclose the same information except for: A) In the present application it is an independent claim related to a cloth printing method and therefore more broad than in the copending application which is a dependent claim claiming a specific cloth printing method previously disclosed, additionally, B) the term “cue sports” in the present application replaces the term “gaming” in the copending application (See table below). It is well known in the art of gaming table cloth that the cloth used for gaming tables defined as “tables used in

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gambling casinos” is not patentably distinct from the cloth used for gaming tables defined as “pool or billiard tables.” Additionally, Siebert specifically teaches a method for making a cloth for gaming and pool tables (Siebert – Abstract), coloring a textile for gaming tables and pool tables (Siebert – Background, Column 1, Lines 1-2), and conventional gaming tables and pool tables typically overlaid with the same cloth (Siebert – Background, Column 1, Lines 13-17), that cloth chosen based on similar functions of increased wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32). Finally, the present application refers to printed woolen cloths that have been used as gaming table covers in casinos as related prior art further emphasizing the non-patentably distinctness of these two applications.

c. **Claims 29-30** in both the present and copending applications disclose identical information when considered in light of the fact that both parent **claim 28s**, essentially disclose identical information.

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28. (Currently amended) A cue sports cloth printing method comprising designing the pattern to be applied such that there are substantially no areas of plain color more than 50mm diameter in substantially all locations on the cloth which sustain high levels of cue stab damage.	28. (Currently amended) The method according to claim 15, wherein the camouflage design is applied such that there are substantially no areas of plain color more than 50mm diameter in substantially all locations on the cloth which sustain high levels of damage.
29. (Currently amended) The method according to claim 28, in which at least two further colors are found within a 10mm radius of substantially any spot of a color in substantially all areas of the cloth in locations that suffer from high levels of damage.	29. (Currently amended) The method according to claim 28, in which at least two further colors are found within a 10mm radius of substantially any spot of a color in substantially all areas of the cloth in locations that suffer from high levels of damage.
30. (Currently amended) The method according to claim 28, wherein at least one further shade of a color is found within a 10mm radius of substantially any spot of color in substantially all areas of the cloth in locations that suffer from damage to a low extent.	30. (Currently amended) The method according to claim 28, wherein at least one further shade of a color is found within a 10mm radius of substantially any spot of color in substantially all areas of the cloth in locations that suffer from damage to a low extent.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. **Claims 1-27** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The equation $\Delta E_2 < k\Delta E_1$ as claimed in **Claim 1 & 15** is an invalid equation when taken in consideration with the remainder of the claim “k is a constant with a value in the range 0 to 5” as assigning a value of 0 to the constant k would result in ΔE_2 being a positive number supposedly less than 0.

11. Given that **claims 2 & 16** narrow the value of the constant, but still allow the constant k to be assigned a value of 0 “k has a value in the range 0 to 3,” these claims are similarly rejected.

12. Given that **claims 2-14** are dependent on rejected **claim 1**, they are effectively rejected as well.

13. Given that **claims 16-27** are dependent on rejected **claim 15**, they are effectively rejected as well.

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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15. **Claims 1-30** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

16. The term "most closely" in **claim 1** is a relative term which renders the claim indefinite. The term "most closely " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The limitation "matches the base color" has rendered it's use indefinite.

17. Given that **claims 2-14** are dependent on rejected **claim 1**, they are effectively rejected as well.

18. The term "most closely" in **claim 15** is a relative term which renders the claim indefinite. The term "most closely " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The limitation "matches the base color" has rendered it's use indefinite.

19. Given that **claims 16-27** are dependent on rejected **claim 15**, they are effectively rejected as well.

20. **Claim 28** recites the limitation "the pattern to be applied, there is insufficient antecedent basis for this limitation in the claim.

21. The term "substantially all locations" in **claim 28** is a relative term which renders the claim indefinite. The term " substantially all locations " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of

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ordinary skill in the art would not be reasonably apprised of the scope of the invention. The limitation “which sustain high levels of damage” has rendered it’s use indefinite.

22. The term “substantially all areas” in **claim 29** is a relative term which renders the claim indefinite. The term “substantially all areas” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The limitation “that suffer from high levels of damage” has rendered it’s use indefinite.

23. The term “substantially all areas” in **claim 30** is a relative term which renders the claim indefinite. The term “substantially all areas” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The limitation “that suffer from damage to a low extent” has rendered it’s use indefinite.

Claim Rejections - 35 USC § 101

24. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

25. **Claims 1-5** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

26. **Claims 1-5** are directed towards printed matter. A mere arrangement of printed matter, though seemingly a “manufacture,” is rejected as not being within the statutory classes. See *In re Miller*, 418 F.2d 1392, 164 USPQ 46 (CCPA 1969); *Ex parte Gwinn*, 112 USPQ 439 (Bd. App.

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1955); and *In re Jones*, 373 F.2d 1007, 153 USPQ 77 (CCPA 1967). See MPEP 706.03(a) [R-2] I

A.

27. The claims do not “define either new features of structure or new relations of printed matter to structure, or both” and “substance or language of that which is printed may not constitute patentable subject matter”. “Where the sole distinction set out in the claims over the prior art is in the printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed, it is only where the claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function or effect or result that claims may be properly allowed.” *Ex Parte Gwinn*. A mere arrangement of printed matter on a sheet or sheets of paper does not constitute patentable subject matter”. *In re Russel*, 18 C.C.P.A. (Patents) 1184, 48, F.2d 668, 9 USPQ 181, and *In re Reeves*, 20 C.C.P.A. (Patents) 767, 62 F.2d 199, 16 USPQ 110.

Claim Rejections - 35 USC § 103

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

30. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

31. **Claims 1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) in view of **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12).

- a. As related to independent **claim 1**, Foley et al. teach a gaming cloth comprising a cloth having a base color with a playing surface having a design printed thereon (Foley et al. – Abstract, Column 1, Lines 14-15; Description, Column 2, Lines 71-72 and Figure 1, shown below); characterized in that at least 30% of the area of the playing surface is printed with a camouflage design (Foley et al. – Figure 1, Reference #32, #34, #36, & #38, shown below) as defined by the function $\Delta E_2 < k\Delta E_1$, where ΔE_1 is a measure of the complexity of the design based on color coordinates of two points within a 2 inch by 2 inch grid square and ΔE_2 is a measure of the color contrast of the design with respect to the base color of the cloth based on color coordinates of two points within a 2 inch by 2

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inch grid square one being the base color and one being a point matching the base color, and k is a constant with a value in the range 0 to 5 (Foley et al. – Abstract, Column 1, Line 18 and Description, Column 2, Lines 18 – 21).

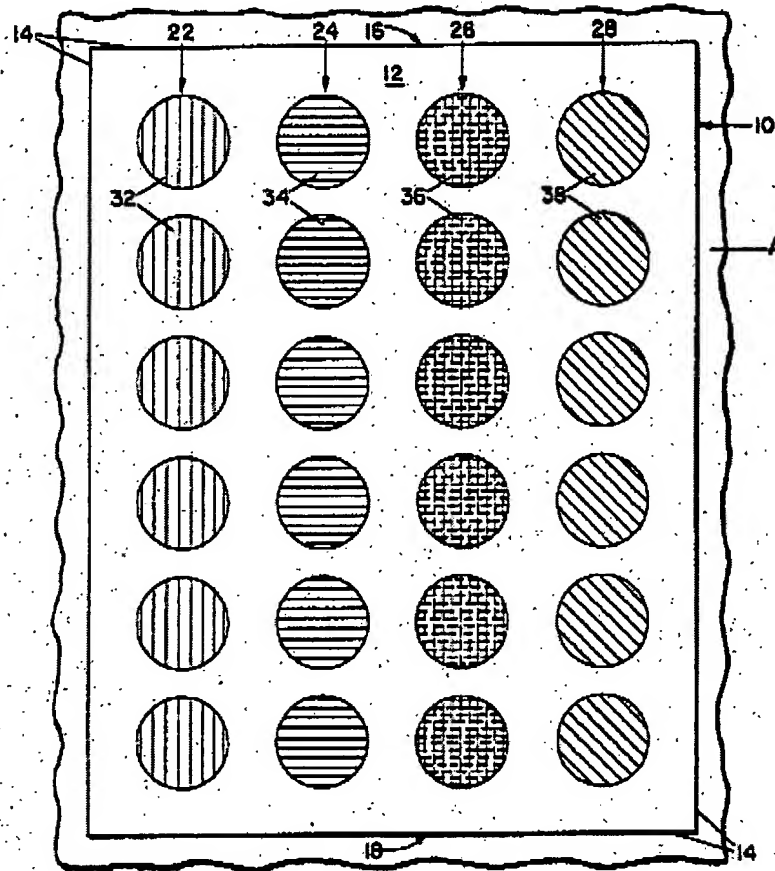


FIG. 1.

- b. As related to dependent **claim 2**, Foley et al. teach a change to the design wherein the constant k has a value in the range 0 to 3 (Foley et al. – Description, Column 2, Lines 18-21 and Lines 63-72).

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- c. As related to dependent **claim 3**, Foley et al. teach a change to the design wherein the camouflage design is further defined by a color complexity value ΔE_1 of 15 or more (Foley et al. – Description, Column 2, Lines 18-21 and Lines 63-72).
- d. As related to dependent **claim 4**, Foley et al. teach the gaming cloth having the camouflage design printed on at least 60% of the area of the playing surface (Foley et al. – Description, Column 2, Lines 18-21 and Column 3, Lines 1-4 & Lines 14-18).
- e. As related to dependent **claim 5**, Foley et al. teach the camouflage design is printed on all high wear areas of the playing surface (Foley et al. – Description, Column 3, Lines 58-61; Description, Column 4, Lines 6-12 and Figure 3, shown below).

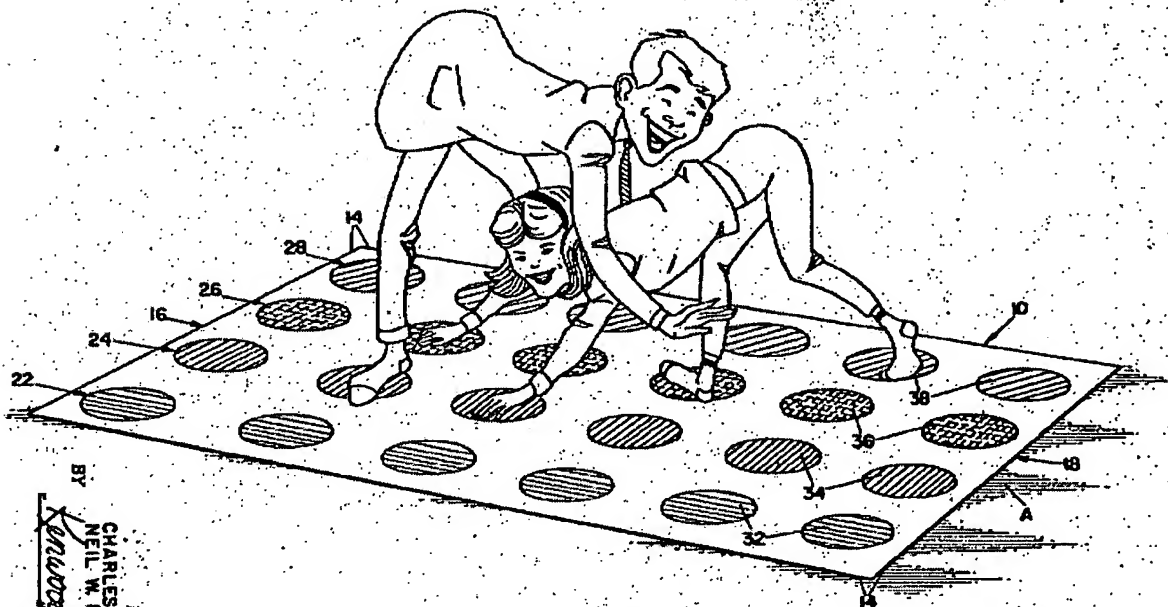


FIG. 3.

INVENTORS:
CHARLES F. FOLEY
NEIL W. RABENS
BY *James R. Ford*
ATTORNEY

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f. Foley et al. *do not* specifically teach the gaming cloth being used as a cue sports cloth. *However*, D&R Industries, Inc. teaches a printed billiard fabric with any image replicated on the playing surface of your billiard or pool table.

Given the same field of endeavor, specifically a design printed cloth for use as a covering with specific high wear areas, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the printed cloth with the pattern delineated on and useful on multiple surfaces as taught by Foley et al. with the personalized design printed cloth as taught by D&R Industries, Inc., in an effort to provide a cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized (D&R Industries, Inc. – What’s New, 22 JULY 2002 – Page 1, Paragraphs 1-3).

32. **Claims 6, 7, 9, 10 & 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) and **D&R Industries, Inc.**,
(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)
as applied to **claim 1** above, and further in view of **Thornton et al.**, (WO 97/27357 A) and **Siebert**, (US 5,568,666 A).

a. As related to dependent **claim 6**, the previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach the cloth is wool or wool blend fabric. *However*, Thornton et al. teach improvements to a cloth, for use in surfacing gaming tables and equipment, that cloth being wool and preferably of natural fibers or mixture {40/60} of synthetic {nylon} and natural {wool} fibers (Thornton et al. – Page 1, Lines 1-4 and Lines 24-28).

- b. As related to dependent **claim 7**, the previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach the cloth is a woven felted fabric. *However*, Thornton et al. teach improvements to a cloth, for use in surfacing gaming tables and equipment, that cloth being a woven felted fabric, specifically “a plain weave, double plain weave or prunelle or twill weave” (Thornton et al. – Page 1, Lines 1-4 and Lines 27-28).
- c. As related to dependent **claim 9**, the previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach the cloth is a worsted fabric. *However*, Thornton et al. teach improvements to a cloth, for use in surfacing gaming tables and equipment, that cloth being a prunelle or twill weave; i.e. fabric of worsted twill (Thornton et al. – Page 1, Lines 1-4 and Lines 27-28 and Dictionary.com definition of prunelle).
- d. As related to dependent **claim 10**, the previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach the cloth is printed with dyes or inks applied to the surface of the base cloth. *However*, Thornton et al. teach that surfacing cloth is accommodating to durable printing applied to them (Thornton et al. – Page 1, Lines 5-9) and the print employed comprises dyes or print inks (Thornton et al. – Page 2, Lines 6-7).
- e. As related to dependent **claim 14**, the previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach a gaming table using the gaming cloth. *However*, Thornton et al. teach that surfacing cloth is particularly used in surfacing gaming tables (Thornton et al. – Page 1, Lines 3-4), and

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specifically a gaming table using the aforementioned cloth (Thornton et al. – Page 5, Lines 27-28).

f. Thornton et al. teach that surfacing cloth is used in surfacing gaming tables, but not exclusively limited to gaming tables (Thornton et al. – Page 1, Lines 3-4) and more specifically surfacing cloth for playing surfaces or casino equipment (Thornton et al. – Claim 12, Page 9). Thornton et al. **do not** specifically teach surfacing cue sports tables. **However**, it is well known in the art of gaming table cloth that the cloth used for gaming tables defined as “tables used in gambling casinos” is typically the same as cloth used for gaming tables defined as “pool or billiard tables.” **Additionally**, Siebert specifically teaches a method for making a cloth for gaming and pool tables (Siebert – Abstract), coloring a textile for gaming tables and pool tables (Siebert – Background, Column 1, Lines 1-2), and conventional gaming tables and cue sport {i.e. pool} tables typically overlaid with the same cloth (Siebert – Background, Column 1, Lines 13-17), that cloth chosen based on similar functions of increased wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32).

Given the same field of endeavor, specifically a gaming table cloth or cue sports table cloth, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by the combination above, with the gaming or cues sports cloth being made of the specific materials as taught by Thornton et al. and Siebert and specifically use on a cue sports or gaming table, in an effort to provide a cue sports or gaming table surface of

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preferred cloth product which provides a desirable cloth texture, evenly accepting of dye and accommodating to printing with dyes or print inks (Thornton et al. – Page 1, Lines 6-8 and 15-17). The motivation is further documented as the present application indicates in the background of the invention that the preferred cloths used for some time are made of wool or wool/nylon blend containing at least 60% wool, a woven felted fabric and a worsted fabric, these cloths having been printed on (Page 1, Lines 7-11).

33. **Claim 13** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

Thornton et al., (WO 97/27357 A) and **Siebert**, (US 5,568,666 A) as applied to **claim 10** above, and further in view of **Takaide et al.**, (EP 0 633 347 A2).

The previous combination of Foley et al., D&R Industries, Inc., Thornton et al. and Siebert remains as applied above, but *does not* specifically teach the cloth being printed by inkjet printing. *However*, Takaide et al. teach the cloth being printed by ink jet textile printing (Takaide et al. - Title & Abstract).). Given the same field of endeavor, specifically printing a pattern on cloth or fabric, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the gaming table cloth or cue sports table cloth and printing thereof as taught by the combination above with printing cloth by inkjet printing as taught by Takaide et al. in an effort to overcome the deficiencies in printing by screen printing and roller printing, specifically manufacturing of various products in small quantity (Takaide et al. – Related Art, Page 3, Lines 11-12).

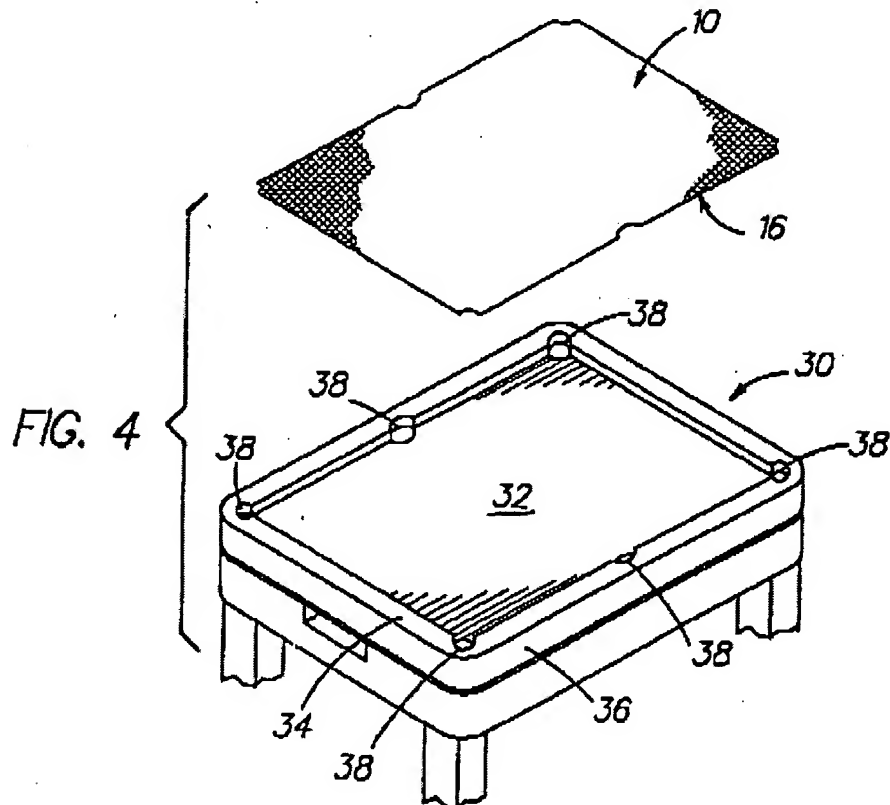
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34. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) and **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

as applied to **claim 1** above, and further in view of **Van Stratum**, (US 6,074,720 A).

The previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach the cloth is a woven felted fabric. *However*, Van Stratum teaches game table fabric that is traditionally felt cloth (Van Stratum – Title, Background, Column 1, Lines 25-28 & Figure 4, shown below).



Given the same field of endeavor, specifically a gaming table cloth or cue sports table cloth, it is apparent that one of ordinary skill in the art at the time the invention was made

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would have been motivated to combine the cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by the combination above, with the cue sports table {gaming} cloth traditionally made of felt as taught by Van Stratum in an effort to provide the preferred material for gaming fabric (Van Stratum - Background, Column 1, Line 28). The motivation is further documented as the present application indicates in the background of the invention that one of the preferred cloths used for some time is a non-woven felted fabric (Page 1, Lines 7-11).

35. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) and **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

as applied to **claim 1** above, further in view of **Takaide et al.**, (EP 0 633 347 A2).

The previous combination of Foley et al. and D&R Industries Inc. remains as applied above, but *does not* specifically teach the cloth is printed with a coloring agent selected from a group containing reactive dyes, acid dyes, pigments and mixtures thereof.

However, Takaide et al. teach cloth printed with at least two types of inks at least containing dyes and at least two types of pigments (Takaide et al. – Summary, Page 4, Lines 4 & 11). Given the same field of endeavor, specifically printing a pattern on cloth or fabric, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by the combination above, with the cloth printed with the dyes and

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pigments as taught by Takaide et al. in an effort to overcome the deficiencies in printing by screen printing and roller printing, specifically manufacturing of various products in small quantity (Takaide et al. – Related Art, Page 3, Lines 11-12).

36. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

and **Takaide et al.**, (EP 0 633 347 A2) as applied to **claim 11** above, and further in view of **Kusaki et al.** (US 6,352,563 B1).

The previous combination of **Foley et al.**, **D&R Industries Inc.** and **Takaide et al.** remains as applied above, but *does not* specifically teach the cloth is printed with acid dyes.

However, **Kusaki et al.** teach a printed cloth that is printed with acid dyes (**Kusaki et al.** – Disclosure, Column 4, Lines 13-15). Given the same field of endeavor, specifically printing a pattern on cloth or fabric, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the gaming table cloth or cue sports table cloth and printing thereof as taught by the combination above with cloth printed by using acid dye as taught by **Kusaki et al.** in an effort to print the cloth using the preferred dye in accordance with the type of fiber of the cloth (wool) (**Kusaki et al.** – Disclosure, Column 4, Lines 13-15 and Source Document - Encyclopedia Britannica “Fibres and Dyes”).

37. **Claims 15-21, 23-24 & 28-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) in view of **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12) and

Thornton et al., (WO 97/27357 A) and further in view of **Seibert** (US 5,568,66 A).

a. As related to independent **claim 15**, Foley et al. teach a gaming cloth comprising a cloth having a base color with a playing surface having a design printed thereon (Foley et al. – Abstract, Column 1, Lines 14-15; Description, Column 2, Lines 71-72 and Figure 1, shown below); characterized in that at least 30% of the area of the playing surface is printed with a camouflage design (Foley et al. – Figure 1, Reference #32, #34, #36, & #38, shown below) as defined by the function $\Delta E_2 < k\Delta E_1$, where ΔE_1 is a measure of the complexity of the design based on color coordinates of two points within a 2 inch by 2 inch grid square and ΔE_2 is a measure of the color contrast of the design with respect to the base color of the cloth based on color coordinates of two points within a 2 inch by 2 inch grid square one being the base color and one being a point matching the base color, and k is a constant with a value in the range 0 to 5 (Foley et al. – Abstract, Column 1, Line 18 and Description, Column 2, Lines 18 – 21).

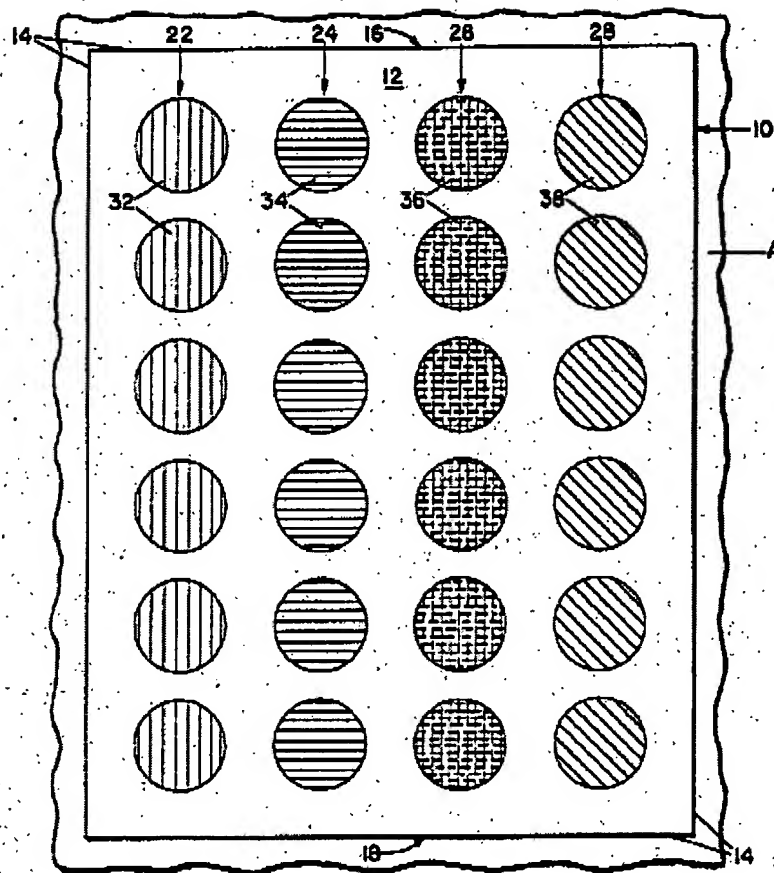


FIG. 1.

b. Continuing with **claim 15**, Foley et al. *do not* specifically teach the gaming cloth being used as a cue sports cloth. *However*, D&R Industries, Inc. teaches a printed billiard fabric with any image replicated on the playing surface of your billiard or pool table. Additionally, Foley et al. *do not* specifically teach the method of printing the gaming cloth, Thornton et al. *do* teach a method for manufacturing gaming cloth to include printing applied to them (Thornton et al. – Page 1, Lines 5-9) and the print employed comprises dyes or print inks (Thornton et al. – Page 2, Lines 6-7). Finally, the combination mentioned above *does not* specifically teach surfacing cue sports tables, *However*, it is well known in the art of gaming table cloth that the cloth used for gaming

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tables defined as “tables used in gambling casinos” is typically the same as cloth used for gaming tables defined as “pool or billiard tables.” *Additionally*, Siebert specifically teaches a method for making a cloth for gaming and pool tables (Siebert – Abstract), coloring a textile for gaming tables and pool tables (Siebert – Background, Column 1, Lines 1-2), and conventional gaming tables and cue sport {i.e. pool} tables typically overlaid with the same cloth (Siebert – Background, Column 1, Lines 13-17), that cloth chosen based on similar functions of increased wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32).

c. As related to dependent **claim 16**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15**, additionally, Foley et al. teach a change to the design wherein the constant k has a value in the range 0 to 3 (Foley et al. – Description, Column 2, Lines 18-21 and Lines 63-72).

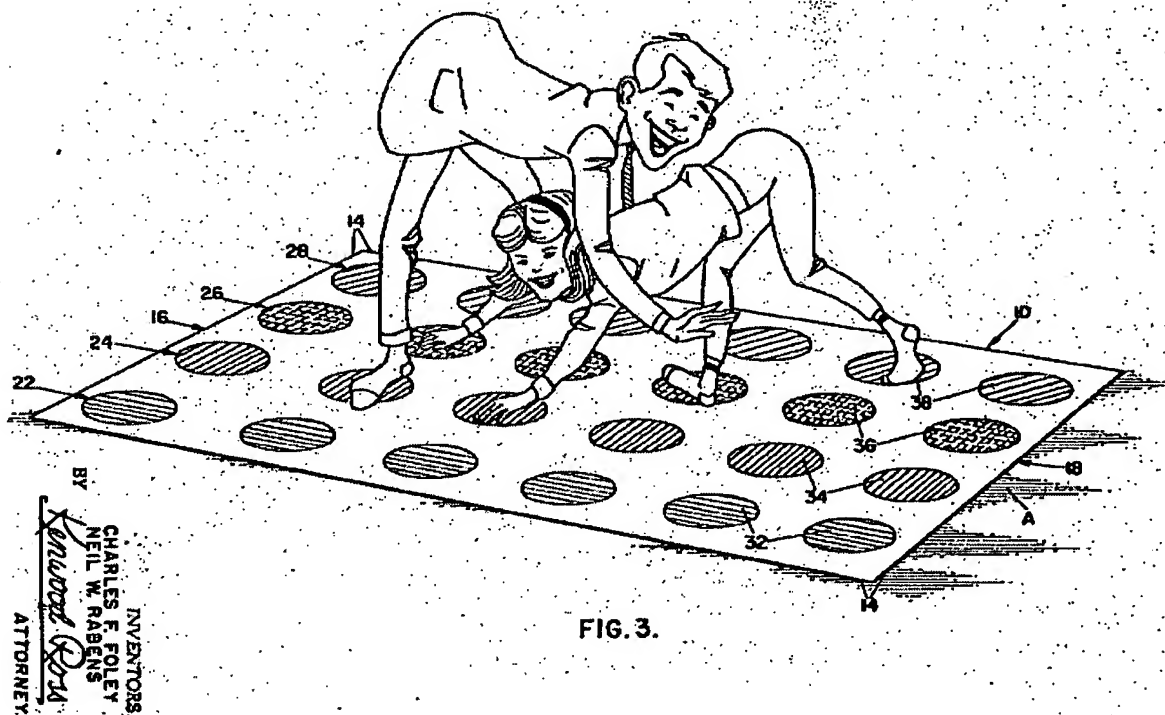
d. As related to dependent **claim 17**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15 & 16**, additionally, Foley et al. teach a change to the design wherein the camouflage design is further defined by a color complexity value ΔE_1 of 15 or more (Foley et al. – Description, Column 2, Lines 18-21 and Lines 63-72).

e. As related to dependent **claim 18**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15 - 17**, additionally, Foley et al. teach the gaming cloth having the camouflage design printed on

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at least 60% of the area of the playing surface (Foley et al. – Description, Column 2, Lines 18-21 and Column 3, Lines 1-4 & Lines 14-18).

f. As related to dependent **claim 19**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15**, additionally, Foley et al. teach the camouflage design is printed on all high wear areas of the playing surface (Foley et al. – Description, Column 3, Lines 58-61; Description, Column 4, Lines 6-12 and Figure 3, shown below).



g. As related to dependent **claim 20**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15**, additionally, Thornton et al. teach improvements to a cloth, for use in surfacing gaming tables and equipment, that cloth being wool and preferably of natural fibers or mixture {40/60} of

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synthetic {nylon} and natural {wool} fibers (Thornton et al. – Page 1, Lines 1-4 and Lines 24-28).

h. As related to dependent **claim 21**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15**, additionally, Thornton et al. teach improvements to a cloth, for use in surfacing gaming tables and equipment, that cloth being a woven felted fabric, specifically “a plain weave, double plain weave or prunelle or twill weave” (Thornton et al. – Page 1, Lines 1-4 and Lines 27-28).

i. As related to dependent **claim 23**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15**, additionally, Thornton et al. teach improvements to a cloth, for use in surfacing gaming tables and equipment, that cloth being a prunelle or twill weave; i.e. fabric of worsted twill (Thornton et al. – Page 1, Lines 1-4 and Lines 27-28 and Dictionary.com definition of prunelle).

j. As related to dependent **claim 24**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 15**, additionally, Thornton et al. teach that surfacing cloth is accommodating to durable printing applied to them (Thornton et al. – Page 1, Lines 5-9) and the print employed comprises dyes or print inks (Thornton et al. – Page 2, Lines 6-7).

Given the same field of endeavor, specifically a gaming table cloth or cue sports table cloth and the method of manufacturing and printing it, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine

printed cloth with the pattern delineated on and useful on multiple surfaces as taught by Foley et al. with the specific use as a cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by D&R Industries Inc. along with the method of making and printing gaming or cues sports cloth using the specific materials as taught by Thornton et al. and Siebert and specifically use on a cue sports or gaming table, in an effort to provide a cue sports or gaming table surface of preferred cloth product which provides a desirable cloth texture, evenly accepting of dye and accommodating to printing with dyes or print inks (Thornton et al. – Page 1, Lines 6-8 and 15-17), further increasing wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32). The motivation is further documented as the present application indicates in the background of the invention that the preferred cloths used for some time are made of wool or wool/nylon blend containing at least 60% wool, a woven felted fabric and a worsted fabric, these cloths having been printed on (Page 1, Lines 7-11).

k. As related to independent **claim 28**, Foley et al. teach the a design is applied or printed on all high wear areas of the playing surface (Foley et al. – Description, Column 3, Lines 58-61; Description, Column 4, Lines 6-12 and Figure 3, shown previously) and the size of the camouflage design printed on the areas of wear is of any practical size or shape (Foley et al. Description, Column 3, Lines 14-18). Foley et al. *do not* specifically teach the gaming cloth being used as a cue sports cloth. *However*, D&R Industries, Inc. teaches a printed billiard fabric with any image replicated on the playing surface of your billiard or pool table. Additionally, Foley et al. *do not* specifically teach the method of printing the gaming cloth, Thornton et al. *do* teach a method for manufacturing gaming cloth to include printing applied to them (Thornton et al. – Page 1, Lines 5-9) and the

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print employed comprises dyes or print inks (Thornton et al. – Page 2, Lines 6-7).

Finally, the combination mentioned above *does not* specifically teach surfacing cue sports tables,. *However*, it is well known in the art of gaming table cloth that the cloth used for gaming tables defined as “tables used in gambling casinos” is typically the same as cloth used for gaming tables defined as “pool or billiard tables.” *Additionally*, Siebert specifically teaches a method for making a cloth for gaming and pool tables (Siebert – Abstract), coloring a textile for gaming tables and pool tables (Siebert – Background, Column 1, Lines 1-2), and conventional gaming tables and cue sport {i.e. pool} tables typically overlaid with the same cloth (Siebert – Background, Column 1, Lines 13-17), that cloth chosen based on similar functions of increased wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32).

1. As related to dependent **claims 29 & 30**, the previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied to **claim 28**, additionally, Foley et al. teach the camouflage design is printed on all high wear areas of the playing surface (Foley et al. – Description, Column 3, Lines 58-61; Description, Column 4, Lines 6-12 and Figure 3, shown previously), the size of the camouflage design printed on the areas of wear is of any practical size or shape (Foley et al. Description, Column 3, Lines 14-18), and the pattern can be of different colors (Foley et al. – Abstract & Description, Column 2, Lines 18-21).

Given the same field of endeavor, specifically a gaming table cloth or cue sports table cloth and the method of manufacturing and printing it, it is apparent that one of ordinary

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skill in the art at the time the invention was made would have been motivated to combine the printed cloth with the pattern delineated on and useful on multiple surfaces as taught by Foley et al. with the specific use as a cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by D&R Industries Inc. along with the method of making and printing gaming or cues sports cloth using the specific materials as taught by Thornton et al. and Siebert and specifically use on a cue sports or gaming table, in an effort to provide a cue sports or gaming table surface of preferred cloth product which provides a desirable cloth texture, evenly accepting of dye and accommodating to printing with dyes or print inks (Thornton et al. – Page 1, Lines 6-8 and 15-17), further increasing wearability and avoiding extensive damage based on human and inanimate object interaction i.e. cards, chips or pool balls (Siebert – Background, Column 1, Lines 23-32). The motivation is further documented as the present application indicates in the background of the invention that the preferred cloths used for some time are made of wool or wool/nylon blend containing at least 60% wool, a woven felted fabric and a worsted fabric, these cloths having been printed on (Page 1, Lines 7-11).

38. **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

Thornton et al., (WO 97/27357 A) and **Siebert**, (US 5,568,666 A) as applied to **claim 24** above, and further in view of **Takaide et al.**, (EP 0 633 347 A2).

The previous combination of Foley et al., D&R Industries Inc., Thornton et al. and Seibert remains as applied above, but *does not* specifically teach the cloth being printed by inkjet printing. *However*, Takaide et al. teach the cloth being printed by ink jet textile printing (Takaide et al. - Title & Abstract). Given the same field of endeavor, specifically printing a pattern on cloth or fabric, it is apparent that one of ordinary skill in

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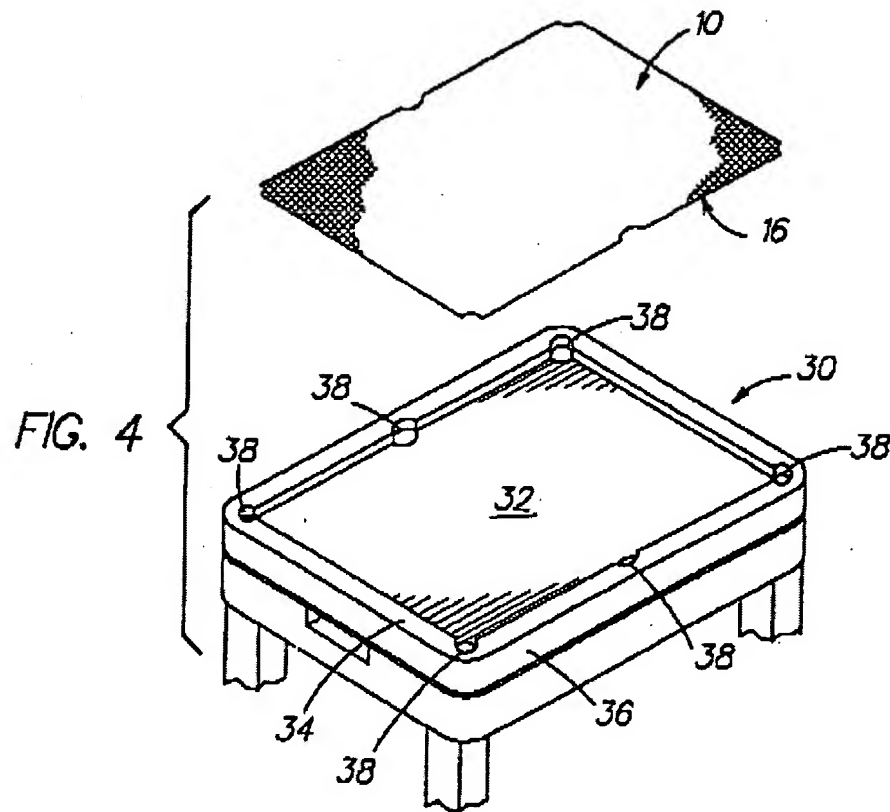
the art at the time the invention was made would have been motivated to combine the method of printing a cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by the combination above, with printing cloth by inkjet printing as taught by Takaide et al. in an effort to overcome the deficiencies in printing by screen printing and roller printing, specifically manufacturing of various products in small quantity (Takaide et al. – Related Art, Page 3, Lines 11-12).

39. **Claim 22** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

Thornton et al., (WO 97/27357 A) and **Siebert**, (US 5,568,666 A) as applied to **claim 15** above, and further in view of **Van Stratum**, (US 6,074,720 A).

The previous combination of **Foley et al.**, **D&R Industries Inc.**, **Thornton et al.** and **Seibert** remains as applied above, but *do not* specifically teach the cloth is a woven felted fabric. *However*, **Van Stratum** teaches game table fabric that is traditionally felt cloth (**Van Stratum** – Title, Background, Column 1, Lines 25-28 & Figure 4, shown below).



Given the same field of endeavor, specifically a gaming table cloth/fabric or cue sports table cloth/fabric, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by the combination above, with the cue sports table {gaming} cloth traditionally made of felt as taught by Van Stratum in an effort to provide the preferred material for gaming fabric (Van Stratum - Background, Column 1, Line 28). The motivation is further documented as the present application indicates in the background of the invention that one of the preferred cloths used for some time is a non-woven felted fabric (Page 1, Lines 7-11).

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40. **Claim 25** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

Thornton et al., (WO 97/27357 A) and **Siebert**, (US 5,568,666 A) as applied to **claim 15** above, and further in view of **Takaide et al.**, (EP 0 633 347 A2).

The previous combination of **Foley et al.**, **D&R Industries Inc.**, **Thornton et al.** and **Seibert** remains as applied above, but *does not* specifically teach the cloth is printed with a coloring agent selected from a group containing reactive dyes, acid dyes, pigments and mixtures thereof. *However*, **Takaide et al.** teach cloth printed with at least two types of inks at least containing dyes and at least two types of pigments (**Takaide et al.** – Summary, Page 4, Lines 4 & 11). Given the same field of endeavor, specifically a method of printing a pattern on cloth or fabric, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the method of printing a cue sports table cloth surface of a preferred high speed durable fabric with no variances from unprinted cloth which is personalized as taught by the combination above, with the method of printing the cloth with the dyes and pigments as taught by **Takaide et al.** in an effort to overcome the deficiencies in printing by screen printing and roller printing, specifically manufacturing of various products in small quantity (**Takaide et al.** – Related Art, Page 3, Lines 11-12).

41. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Foley et al.**, (US 3,454,279 A) **D&R Industries, Inc.**,

(http://web.archive.org/web/20020806043026/www.champbilliards.com/whats_new_story.asp?news_id=12)

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Thornton et al., (WO 97/27357 A) **Siebert**, (US 5,568,666 A) and **Takaide et al.**, (EP 0 633 347 A2) as applied to **claim 25** above, and further in view of **Kusaki et al.** (US 6,352,563 B1).

a. The previous combination of Foley et al., D&R Industries Inc., Thornton et al., Seibert and Takaide et al. remains as applied above, but *does not* specifically teach the cloth is printed with acid dyes. *However*, Kusaki et al. teach a printed cloth that is with acid dyes (Kusaki et al. – Disclosure, Column 4, Lines 13-15). Given the same field of endeavor, specifically printing a pattern on cloth or fabric, it is apparent that one of ordinary skill in the art at the time the invention was made would have been motivated to combine the method of printing the cue sports table cloth as taught by the combination above with the method of printing cloth using acid dye as taught by Kusaki et al. in an effort to print the cloth using the preferred dye in accordance with the type of fiber of the cloth (wool) (Kusaki et al. – Disclosure, Column 4, Lines 13-15 and Source Document - Encyclopedia Britannica “Fibres and Dyes”).

Conclusion

42. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koike et al. (US 5,396,275 A) teach ink jet printing on cloth, a specific distribution, printing on natural fibers using dyes including acid, direct, reactive and the like. Aoki (US 5,976,673 A) teaches ink-jet printing on cloth to include wool, using inks composed of acid or direct dye. Kusaki et al. (US 6,051,036 A) teach printed cloth in which dye is deposited in dots on the cloth to form a desired printed pattern. Nakamura et al. (US 6,371,610 B1) teach ink-jet printing method and ink-jet printed cloth. Curtis et al. (US 2003-0092341 A1) teach camouflage

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material printed or dyed. Nakamura et al. (US 2004/0174422 A1) teach inkjet recording cloth that can be printed using a pigment ink without deterioration in its characteristic handling touch. Santos et al. (US 6,805,957 B1) teach printing a camouflage pattern on fabric using acid dyes. Santos et al. (2004/0209051 A1) teach printing a camouflage pattern on fabric using acid dyes. Nishikawa et al. (US 2004/0201660 A1) teach a cloth used as recording medium, knit or woven. Brasier et al. (US 2005/0018030 A1) teach a gaming cloth comprising a major part wool and a graphic image using ink. Magee et al. (US 6,884,493 B2) teach color, pattern and design applied to a carpet substrate. Kosaka (US 2005/0117007 A1) teaches a process for forming patterns using ink jet printing on cloth. Salerno (US 6,945,533 B1) teaches a gaming cloth formed to fit any table shape and size with symbols printed thereon. Milini (US 2005/0206711 A1) teaches an apparatus capable of performing digital inkjet printing of fabric. Lobley et al. (US 2006/0023054 A1) teach a gaming cloth and method of printing the cloth. Brasier et al. (US 7,194,958 B2) teach printing a graphic image onto a cue sports cloth.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Zimmermann whose telephone number is 571-270-3049. The examiner can normally be reached on Monday - Thursday, 7:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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